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10 **Attorneys for Plaintiff**

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF NEVADA**

13 **EQUAL EMPLOYMENT**
14 **OPPORTUNITY COMMISSION,**

15 **Plaintiff,**

16 **v.**

17 **SIERRA RESTROOM SOLUTIONS,**
18 **LLC**

19 **Defendant.**

20 **Case No.**

21 **COMPLAINT**

22 **JURY TRIAL DEMAND**

23 **NATURE OF THE ACTION**

24 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights
25 Act of 1991 to correct unlawful employment practices on the basis of race, and to provide appropriate
26 relief to Michael Scales who was adversely affected by such practices. As alleged with greater
27 particularity in paragraphs 7 and 8 below, Michael Scales's employer, Defendant Sierra Restroom
28 Solutions, subjected him to a racially hostile environment consisting of racial slurs and epithets, as well
as racist comments and imagery. He was fired in retaliation for complaining about the racially hostile
environment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and
1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the

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COMPLAINT

1 Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102
2 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3 2. The employment practices alleged to be unlawful were committed in Washoe County,
4 Nevada, which is within the jurisdiction of the United States District Court for Nevada, Northern
5 Division.

6 PARTIES

7 3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the
8 agency of the United States of America charged with the administration, interpretation and
9 enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3)
10 of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

11 4. At all relevant times, Defendant, Sierra Restroom Solutions (the “Employer”), has
12 continuously been a business entity doing business in Washoe County in the State of Nevada and has
13 continuously had at least 15 employees.

14 5. At all relevant times, Defendant Employer has continuously been an employer engaged
15 in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42
16 U.S.C. § 2000e(b), (g) and (h).

17 STATEMENT OF CLAIMS

18 6. More than thirty days prior to the institution of this lawsuit, Michael Scales filed a
19 charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions
20 precedent to the institution of this lawsuit have been fulfilled: the EEOC received a timely charge of
21 discrimination and notified Defendant thereof; the EEOC conducted some investigation into the
22 charge; the EEOC found cause to believe that discrimination had taken place; and, prior to initiation of
23 suit, the EEOC engaged in good faith efforts to conciliate the matter.

24 7. Since at least November 2006, Defendant Employer has engaged in unlawful
25 employment practices at its Sparks, Nevada facility, in violation of Section 703(a) of Title VII, 42
26 U.S.C. § 2000e-2(a). Specifically, Defendant employer, through its supervisory employee, Jeff
27 Palmer, and its non-supervisory employee, Billy James, created a racially hostile environment by using

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1 racial slurs against Mr. Scales and making racist statements against African-Americans, including but
2 not limited to referring to Michael Scales as “nigger” and stating that the white race should be kept
3 pure.

4 8. On or about March 22, 2007, Defendant Employer engaged in an unlawful employment
5 practice at its Sparks, Nevada facility, in violation of Section 704(f)(3) of Title VII, 42 U.S.C. § 2000e-
6 3(f)(3) by firing Mr. Scales because he complained to his supervisor on or about March 6 and 20, 2007
7 about racially offensive episodes in the workplace.

8 9. The effect of the practices complained of in paragraphs 7 and 8 above has been to
9 deprive Mr. Scales of equal employment opportunities and otherwise adversely affect his status as an
10 employee, because of his race, African-American.

11 10. The unlawful employment practices complained of in paragraphs 7 and 8 above were
12 intentional.

13 11. The unlawful employment practices complained of in paragraphs 7 and 8 above were
14 done with malice or with reckless indifference to the federally protected rights of Mr. Scales.

15 PRAYER FOR RELIEF

16 Wherefore, the Commission respectfully requests that this Court:

17 A. Grant a permanent injunction enjoining Defendant Employer, its officers, agents,
18 servants, employees, attorneys, and all persons in active concert or participation with them, from
19 engaging in race harassment and retaliation.

20 B. Order Defendant Employer to institute and carry out policies, practices, and programs
21 which provide equal employment opportunities for African-Americans, and which eradicate the effects
22 of its past and present unlawful employment practices.

23 C. Order Defendant Employer to make whole Mr. Scales, by providing appropriate
24 backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief
25 necessary to eradicate the effects of its unlawful employment practices.

26 D. Order Defendant Employer to make whole Mr. Scales, by providing compensation for
27 past and future pecuniary losses resulting from the unlawful employment practices described in

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1 paragraphs 7 and 8 above, including medical expenses not covered by the Employer's employee benefit
2 plan, in amounts to be determined at trial.

3 E. Order Defendant Employer to make whole Mr. Scales by providing compensation for
4 past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs
5 7 and 8 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and
6 humiliation, in amounts to be determined at trial.

7 F. Order Defendant Employer to pay Mr. Scales punitive damages for its malicious and
8 reckless conduct described in paragraphs 7, 8, 11 and 12 above, in amounts to be determined at trial.

9 G. Grant such further relief as the Court deems necessary and proper in the public interest.

10 H. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

JAMES L. LEE
Deputy General Counsel

GWENDOLYN REAMS
Associate General Counsel

U. S. EQUAL EMPLOYMENT
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Date: September 15, 2009

/s/ William R. Tamayo
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Date: September 15, 2009

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